

KAREN R. CAUDLE 9/18/2014

Page 1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

CLINTON HENDERSON and )  
ANDREW OLINDE, )  
individually and on )  
behalf of all other )  
similarly situated )  
individuals, )  
 )  
Plaintiffs, ) CIVIL ACTION NO.  
 )  
vs. ) 1:13-CV-3767-TWT  
 )  
1400 NORTHSIDE DRIVE, )  
INC. d/b/a SWINGING )  
RICHARDS, AND C.B. )

877-489-0367

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KAREN R. CAUDLE 9/18/2014

Page 2

JONES, )  
 )  
 Defendants. )

DEPOSITION OF KAREN A. CAUDLE

( Taken by Plaintiffs )

September 18, 2014

12:00 p.m.

Suite 2700  
260 Peachtree Street  
Atlanta, Georgia

KAREN R. CAUDLE 9/18/2014

Page 3

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KAREN R. CAUDLE 9/18/2014

Page 4

## 1 INDEX TO EXAMINATION

2	Witness Name:	Page
3	KAREN A. CAUDLE	
4	By Mr. Lukas	6

5

## 6 INDEX TO PLAINTIFF'S EXHIBITS

7	No.	Description	Page
8	Exhibit 7	SR 188, 1-22-13, Swinging Richards Sign-In/Out sheet.	4
9	Exhibit 8	SR 421, Front Door rules.	6
10	Exhibit 9	SR 440, 11-3-13, Guest Check and EMS Restaurant credit card receipt re: New Year's Eve tickets.	12
11	Exhibit 10	SR 529 thru 531, 1-1-11, Spreadsheet re: VIP room charges.	14
12	Exhibit 11	SR 966, 10-21-11, Photocopy of envelope re: Richards: House, Matt C.	18
13	Exhibit 12	SR 2037, 4-4-14, Timecard re: Mike Crowley.	19
14	Exhibit 13	SR 2038, Swinging Richards Weekly Sign-In/Out sheet re: Mike Crowley.	21

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## 22 INDEX TO MARKED QUESTIONS

23	Page No.	Line
24	9	18
25	11	6

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KAREN R. CAUDLE 9/18/2014

Page 5

1 KAREN A. CAUDLE,  
2 having been first duly sworn, was examined and  
3 testified as follows:

4 EXAMINATION

5 BY MR. LUKAS:

6 Q. Will you please state your full name,  
7 spelling your last name for the record?

8 A. Karen A. Caudle, C-A-U-D-L-E.

9 Q. Ms. Caudle, we were here a couple weeks  
10 back, so you already get the joke on how all this  
11 work. Okay?

12 A. Uh-huh.

13 Q. I just have a couple questions. Now that  
14 I have some documents and exhibits, I just want to  
15 clarify and confirm some things that we talked  
16 about last time and make sure that I understand the  
17 documents.

18 Okay?

19 A. Okay.

20 (Whereupon, Deposition Exhibit  
21 7 was marked.)

22 BY MR. LUKAS:

23 Q. I'm showing you what has been marked as  
24 Plaintiff's Deposition Exhibit Number 7. Could you  
25 tell me what this document is?

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KAREN R. CAUDLE 9/18/2014

Page 11

1 that the tally sheet that I started putting in  
2 there that just asks them to record -- it does  
3 record how many free people come in, but they also  
4 have that on the outside of the envelope that we  
5 were just discussing also.

6 Q. Paragraph 11 talks about tip-out. There's  
7 no record kept by the --

8 MR. SCHLANGER: Keep going.

9 (Whereupon, there was a telephonic  
10 interruption.)

11 BY MR. LUKAS:

12 Q. There's no record kept of how much dancers  
13 tip out to the front door person; correct?

14 A. That's correct. Not that I know of.

15 Q. And there's no record kept of how much the  
16 dancers tip out the general manager slash D.J.;  
17 correct?

18 A. That's correct.

19 Q. And there's no record kept of how much the  
20 dancers tip out the V.I.P. person; correct?

21 A. That's correct.

22 Q. And then the --

23 A. Excuse me. I'm sorry.

24 Q. That's all right.

25 A. My son kept track of it for a few months

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KAREN R. CAUDLE 9/18/2014

Page 13

1 A. I would think so, yes.

2 Q. But you can't be any more specific for me  
3 than that?

4 A. No.

5 (Whereupon, Deposition Exhibit  
6 9 was marked.)

7 BY MR. LUKAS:

8 Q. Ms. Caudle, showing you Plaintiff's  
9 Exhibit 9. Could you tell me what this is?

10 A. This gentleman bought two New Year's Eve  
11 tickets.

12 Q. How can you tell that?

13 A. It says New Year's Eve tix two on it. And  
14 the price for the New Year's Eve tickets are 55  
15 dollars. So he bought two, 110 dollars, gave  
16 whoever sold -- I guess whoever sold them the  
17 tickets a ten dollar tip to make a grand total of  
18 120.

19 Q. What is E.M.S. Restaurant?

20 A. That's what they put on the credit card  
21 charges rather than Swinging Richards.

22 Q. I see. Is that true for the V.I.P. room  
23 charges used -- where they use a credit card, so it  
24 says E.M.S. Restaurant on it?

25 A. As far -- yes. I don't believe any of

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KAREN R. CAUDLE 9/18/2014

Page 14

1 them say Swinging Richards, yes.

2 Q. So when the customer gets their credit  
3 card charges back, it just says E.M.S. Restaurant?

4 A. I've never made a charge.

5 Q. Well, sure.

6 A. Yeah. So I'm assuming it would.

7 Q. That's for privacy reasons, I assume?

8 A. Yes.

9 Q. Does this have anything to do with this  
10 lawsuit that you're aware of?

11 A. The purchase of the New Year's Eve  
12 tickets?

13 Q. Yes. Is that something dancers were  
14 selling?

15 A. No.

16 MS. MURPHEY: I think this was one of  
17 the samples I gave you of documents that we  
18 weren't producing but were in the 35 boxes.  
19 This one has New Year's Eve tickets. But if  
20 they bought liquor or drinks, it would have  
21 the tab and then the credit card receipt.

22 And that's what I was showing you we  
23 weren't producing. This is just an odd one  
24 because it has the New Year's Eve tickets.

25 But it's something that a waitress fills out

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KAREN R. CAUDLE 9/18/2014

Page 20

1 A. I have no idea.

2 Q. You don't do anything with it, do you?

3 A. Other than keep it, no.

4 Q. You don't use it to audit or to make sure  
5 that there's no discrepancies or anything?

6 A. Oh, yes. If I feel that the money is  
7 short, then yes, I can count the number of people  
8 that worked and use that as a, I don't know how to  
9 explain it, as a way of making sure that all the  
10 money's there.

11 Q. As I understand it, some dancers pay --  
12 don't have to pay if they're the first one there  
13 and there are certain rules like that; right?

14 A. I know the first one there does not pay.  
15 I know that they don't -- if they have to leave for  
16 an emergency, they pay. But I'm not certain of the  
17 particulars.

18 Q. So it wouldn't be something you'd be able  
19 to use for precision, but you could look at it  
20 generally to see if it lines up with what you're  
21 holding in your hand for house fees?

22 A. Yes.

23 (Whereupon, Deposition Exhibit  
24 12 was marked.)

25 BY MR. LUKAS:

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KAREN R. CAUDLE 9/18/2014

Page 21

1 Q. Ms. Caudle, showing you exhibit --  
2 Plaintiff's Exhibit 12. Can you tell me what this  
3 document is?

4 A. This is a timecard.

5 Q. And how long was this -- or is this  
6 currently in use?

7 A. No.

8 Q. When was it in use?

9 A. April the 4th.

10 Q. Of 2014?

11 A. Yes.

12 Q. For how long?

13 MR. SCHLANGER: She may have  
14 misunderstood the question.

15 MR. LUKAS: Sure.

16 MR. SCHLANGER: She was answering  
17 specifically about this document, which is  
18 April 4th. The question is how long has  
19 this form been used.

20 MR. LUKAS: Oh. Yes.

21 THE WITNESS: We used it for about a  
22 month. They used timecards for about a  
23 month.

24 BY MR. LUKAS:

25 Q. And apparently that timecard period was

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KAREN R. CAUDLE 9/18/2014

Page 22

1 around April of 2014?

2 A. Apparently.

3 Q. And we know that because the four slash  
4 four means April 4th; right?

5 A. Yes.

6 Q. And we know it's 2014 because that's your  
7 memory?

8 A. Yes. 2014.

9 Q. And you used it for about a month?

10 A. Yes. Timecards for about a month.

11 Q. And why was it instituted? Why did you  
12 start using it?

13 A. So we could keep track of when they  
14 worked.

15 Q. Why?

16 A. I don't know.

17 Q. And why was it discontinued?

18 A. We started timesheets.

19 Q. And why do you use timesheets instead of  
20 these sheets?

21 A. They were more thorough.

22 (Whereupon, Deposition Exhibit  
23 13 was marked.)

24 BY MR. LUKAS:

25 Q. Showing you Plaintiff's 13. Are these the

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KAREN R. CAUDLE 9/18/2014

Page 23

1       timesheets you started using in place of the  
2       Exhibit 12?

3           A.    Yes.

4           Q.    And I believe we talked about these in  
5       your last deposition; correct?

6           A.    Yes, we did.

7           Q.    We were kind of guessing what was on them  
8       and wasn't on them?

9           A.    Right.

10          Q.    And these have been in use since now we  
11       know probably April, sometime around April or May  
12       of 2014?

13          A.    Yes.

14          Q.    And are they still currently being used?

15          A.    Yes.

16          Q.    And what, if anything, do you do with  
17       the -- well, first of all, who collects these?

18          A.    I do.

19          Q.    And how do you collect them?

20          A.    They put them underneath the desk at the  
21       door.

22          Q.    This is what we were talking about that  
23       goes under the desk. And what do you do with them?

24          A.    I file them.

25          Q.    And that's all you do is file them;

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KAREN R. CAUDLE 9/18/2014

Page 24

1 correct?

2 A. Correct.

3 Q. You don't use them for any bookkeeping or  
4 pass it on to Jimmy or anything else like that?

5 A. No.

6 Q. Does Swinging Richards collect money for  
7 fines for anything other than being late, from  
8 entertainers, I should be more precise?

9 A. They have on a rare occasion, so rare that  
10 I could not tell you what it was for.

11 Q. But the vast, vast majority of these fines  
12 are for being late?

13 A. Yes.

14 Q. How are the waiters and bartenders paid?

15 A. On payroll wage, an hourly wage.

16 Q. And they get to keep their tips?

17 A. Yes.

18 Q. Is there any attempt by the club to use a  
19 tip credit to reduce their hourly wage paid, or is  
20 there no such effort?

21 A. There's no such effort.

22 Q. How much are the waiters paid hourly?

23 A. Waiters are 4.34 an hour.

24 Q. And how about bartenders?

25 A. 4.37 an hour.

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KAREN R. CAUDLE 9/18/2014

Page 25

1 Q. Is there any effort to track the tips  
2 bartenders and waiters earn?

3 A. No.

4 Q. Although there is a record of credit card  
5 tips they receive?

6 A. I don't keep a record of credit card tips  
7 that they receive. On their timecards they write  
8 down the tips they claim, but that is the only  
9 record. I report that to A.D.P. Excuse me. There  
10 I go again. Paychex.

11 But no, I don't keep a log or record of  
12 what each individual bartender or waiter is tipped.

13 Q. But you do track how much cash they take  
14 out of the till at the end of the night to cover  
15 their credit card tips; correct?

16 A. That would be on the Excel sheet. But we  
17 don't track them per waiter or bartender.

18 Q. Right. Just -- oh, I see what you're  
19 saying. You don't do it per employee, but you do  
20 do it, you do track how much tips are paid through  
21 credit card transactions?

22 A. Right.

23 Q. I'm with you. Is 4.34 and 4.37 a tipped  
24 hourly wage, do you know?

25 A. Yes.

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KAREN R. CAUDLE 9/18/2014

Page 26

1 Q. And that's why you have to report to  
2 Paychex what they report for their -- they  
3 individually report as their tips?

4 A. Right. Yes.

5 MS. MURPHEY: I think she didn't  
6 understand your --

7 MR. LUKAS: Yes.

8 MS. MURPHEY: -- earlier question about  
9 the tip wage.

10 MR. LUKAS: Yes.

11 MS. MURPHEY: Obviously they do tip  
12 wage.

13 MR. LUKAS: I get it.

14 THE WITNESS: I thought there was  
15 something more to it.

16 BY MR. LUKAS:

17 Q. No. And the general manager slash D.J.,  
18 in other words, Matt and August, they're not  
19 included in the payroll; correct?

20 A. Correct.

21 Q. Are they issued 1099s?

22 A. No.

23 Q. They're paid exclusively by the  
24 entertainers tipping them out at the end of the  
25 night; correct?

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KAREN R. CAUDLE 9/18/2014

Page 27

1 A. Yes.

2 Q. And there's no record kept, again,  
3 formally of how much they make?

4 A. No. Although August does work V.I.P.  
5 door, too. So he gets an hourly wage and tips --

6 Q. I see.

7 A. -- when he does that position.

8 Q. I should -- that's a good point. The  
9 front door and the V.I.P. door people are also paid  
10 hourly?

11 A. Yes.

12 Q. And what's their hourly wage?

13 A. 12 dollars.

14 Q. And they're allowed to keep their tips as  
15 well; right?

16 A. Yes.

17 Q. But you don't track those tips?

18 A. No.

19 Q. If a V.I.P. door, I think I remember this  
20 from last time, if a V.I.P. door person receives a  
21 tip on a credit card, that gets paid out through  
22 the bartenders' drawer, and that's where that could  
23 be captured; right?

24 A. Yes.

25 MR. LUKAS: Thank you, ma'am.

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